



February 9, 2007

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## SENATE BILL No. 166

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DIGEST OF SB 166 (Updated February 6, 2007 12:16 pm - DI 71)

**Citations Affected:** IC 4-15; IC 10-16.

**Synopsis:** Employment protection for civil air patrol members. Provides that a member of the Indiana wing of the civil air patrol (CAP) may not be disciplined by an employer for leaving or being absent from work for certain emergency service operations if the member: (1) has notified the employer that the employee is a CAP member; and (2) in the case of a nongovernmental employee, is not designated by the employer as an essential employee.

**Effective:** July 1, 2007.

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**Ford, Heinold**

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January 11, 2007, read first time and referred to Committee on Homeland Security, Transportation & Veterans Affairs.  
February 8, 2007, amended, reported favorably — Do Pass.

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SB 166—LS 6614/DI 103+



February 9, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## SENATE BILL No. 166

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 4-15-10-8 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2007]: **Sec. 8. (a) For purposes of this section, "civil air patrol"**  
4 **refers to the Indiana wing of the civil air patrol.**

5 **(b) For purposes of this section, "emergency service operation"**  
6 **includes the following operations of the civil air patrol:**

7 **(1) Search and rescue missions designated by the Air Force**  
8 **Rescue Coordination Center.**

9 **(2) Disaster relief, when requested by the federal or state**  
10 **emergency management agency.**

11 **(3) Humanitarian services, when requested by the federal or**  
12 **state emergency management agency.**

13 **(4) United States Air Force support designated by the First**  
14 **Air Force, North American Aerospace Defense Command.**

15 **(c) An employee may not be disciplined for absence from work**  
16 **if:**

17 **(1) the employee is a member of the civil air patrol;**

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(2) the employee has notified the employee's immediate supervisor in writing that the employee is a member of the civil air patrol;

(3) in the event that the employee has already reported for work on the day of the emergency service operation, the employee secures authorization from the employee's supervisor to leave the employee's duty station before leaving to engage in the emergency service operation; and

(4) the employee presents a written statement to the employee's immediate supervisor from the commander or other officer in charge of the civil air patrol indicating that the employee was engaged in an emergency service operation at the time of the employee's absence from work.

SECTION 2. IC 10-16-1-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 5.5. "Civil air patrol"** refers to the Indiana wing of the civil air patrol.

SECTION 3. IC 10-16-1-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 9.5. "Emergency service operation"** includes the following operations of the civil air patrol:

(1) Search and rescue missions designated by the Air Force Rescue Coordination Center.

(2) Disaster relief, when requested by the federal or state emergency management agency.

(3) Humanitarian services, when requested by the federal or state emergency management agency.

(4) United States Air Force support designated by the First Air Force, North American Aerospace Defense Command.

SECTION 4. IC 10-16-1-15.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: **Sec. 15.5. "Political subdivision"** has the meaning set forth in IC 36-1-2-13.

SECTION 5. IC 10-16-19 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]:

**Chapter 19. Civil Air Patrol**

**Sec. 1. (a)** This section does not apply to an employee of the state subject to IC 4-15-10-8.

**(b)** This section applies to an employee of a political subdivision who:

(1) is a member of the civil air patrol; and

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(2) has notified the employee's employer in writing that the employee is a member of the civil air patrol.

(c) A political subdivision employer may not discipline an employee:

(1) for being absent from employment by reason of engaging in an emergency service operation that began before the time that the employee was to report to employment; or

(2) for leaving the employee's duty station to engage in an emergency service operation if the emergency service operation began after the employee had reported for work and the employee secured authorization from the employee's supervisor to leave the employee's duty station before leaving to engage in the emergency service operation.

(d) A political subdivision employer may require an employee who has been absent from employment as set forth in subsection (c)(1) or (c)(2) to present a written statement from the commander or other officer in charge of the civil air patrol at the time of the absence indicating that the employee was engaged in an emergency service operation at the time of the absence.

(e) An employee who is disciplined by the employee's employer in violation of subsection (c) may bring a civil action against the employer in the county of employment. In the action, the employee may seek the following:

- (1) Payment of back wages.
- (2) Reinstatement to the employee's former position.
- (3) Fringe benefits wrongly denied or withdrawn.
- (4) Seniority rights wrongly denied or withdrawn.

An action brought under this subsection must be filed within one (1) year after the date of the disciplinary action.

(f) A public servant (as defined in IC 35-41-1-24) who permits or authorizes an employee of a political subdivision under the supervision of the public servant to be absent from employment as set forth in subsection (c) is not considered to have committed a violation of IC 35-44-2-4(b).

Sec. 2. (a) This section applies to an employee of a private employer who:

- (1) is a member of the civil air patrol; and
- (2) has notified the employee's employer in writing that the employee is a member of the civil air patrol.

(b) Except as provided in subsection (c), the employer may not discipline an employee:

- (1) for being absent from employment by reason of engaging

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1 in an emergency service operation that began before the time  
2 that the employee was to report to employment; or

3 (2) for leaving the employee's duty station to engage in an  
4 emergency service operation if the emergency service  
5 operation began after the employee had reported for work  
6 and the employee secured authorization from the employee's  
7 supervisor to leave the employee's duty station before leaving  
8 to engage in the emergency service operation.

9 (c) After an employer is notified under subsection (a)(2) that an  
10 employee is a member of the civil air patrol, the employer may  
11 reject the notification on the grounds that the employee is an  
12 essential employee to the employer. If an employer rejects the  
13 notification of an employee under this subsection:

14 (1) subsection (b) does not apply to the employee; and

15 (2) the employee shall promptly notify the commander or  
16 other officer in charge of the civil air patrol of the rejection of  
17 the employee's notification under subsection (a)(2).

18 (d) The employer may require an employee who has been absent  
19 from employment as set forth in subsection (b)(1) or (b)(2) to  
20 present a written statement from the commander or other officer  
21 in charge of the civil air patrol at the time of the absence indicating  
22 that the employee was engaged in an emergency service operation  
23 at the time of the absence.

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## SENATE MOTION

Madam President: I move that Senator Heinold be added as second author of Senate Bill 166.

FORD

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 COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 166, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 7 through 10, begin a new line block indented and insert:

**"(1) Search and rescue missions designated by the Air Force Rescue Coordination Center.**

**(2) Disaster relief, when requested by the federal or state emergency management agency.**

**(3) Humanitarian services, when requested by the federal or state emergency management agency.**

**(4) United States Air Force support designated by the First Air Force, North American Aerospace Defense Command."**

Page 2, delete lines 18 through 21, begin a new line block indented and insert:

**"(1) Search and rescue missions designated by the Air Force Rescue Coordination Center.**

**(2) Disaster relief, when requested by the federal or state emergency management agency.**

**(3) Humanitarian services, when requested by the federal or state emergency management agency.**

**(4) United States Air Force support designated by the First Air Force, North American Aerospace Defense Command."**

and when so amended that said bill do pass.

(Reference is to SB 166 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 7, Nays 0.

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